

# HOUSE BILL No. 1103

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2-163; IC 16-19-3-28; IC 20-8.1-7-9.5; IC 34-30-2-64.5.

**Synopsis:** Vaccination exemption and disclosure. Requires the state department of health to prepare and publish forms disclosing the risks and benefits of vaccines and to publish forms allowing an adult or a parent or guardian of a child to exempt the adult or the child from receiving a vaccine. Requires a health care provider to provide a copy of the appropriate forms to an adult and the parent or guardian of a child. Provides that a civil or criminal penalty may not be imposed on an adult or parent or guardian of a child who does not give consent to receive a vaccination.

**Effective:** July 1, 2005.

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January 6, 2005, read first time and referred to Committee on Public Health.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1103

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A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 16-18-2-163 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 163. (a) "Health care  
3 provider", for purposes of IC 16-21 and IC 16-41, means any of the  
4 following:

5 (1) An individual, a partnership, a corporation, a professional  
6 corporation, a facility, or an institution licensed or legally  
7 authorized by this state to provide health care or professional  
8 services as a licensed physician, a psychiatric hospital, a hospital,  
9 a health facility, an emergency ambulance service (IC 16-31-3),  
10 a dentist, a registered or licensed practical nurse, a midwife, an  
11 optometrist, a pharmacist, a podiatrist, a chiropractor, a physical  
12 therapist, a respiratory care practitioner, an occupational therapist,  
13 a psychologist, a paramedic, an emergency medical technician, an  
14 emergency medical technician-basic advanced, an emergency  
15 medical technician-intermediate, or a person who is an officer,  
16 employee, or agent of the individual, partnership, corporation,  
17 professional corporation, facility, or institution acting in the

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course and scope of the person's employment.

(2) A college, university, or junior college that provides health care to a student, a faculty member, or an employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.

(3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

(c) "Health care provider", for purposes of IC 16-36-5, means an individual licensed or authorized by this state to provide health care or professional services as:

(1) a licensed physician;

(2) a registered nurse;

(3) a licensed practical nurse;

(4) an advanced practice nurse;

(5) a licensed nurse midwife;

(6) a paramedic;

(7) an emergency medical technician;

(8) an emergency medical technician-basic advanced;

(9) an emergency medical technician-intermediate; or

(10) a first responder, as defined under IC 16-18-2-131.

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The term includes an individual who is an employee or agent of a health care provider acting in the course and scope of the individual's employment.

**(d) "Health care provider", for purposes of IC 16-19-3-28, has the meaning set forth in IC 16-19-3-28(a).**

SECTION 2. IC 16-19-3-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 28. (a) As used in this section, "health care provider" means an individual licensed or authorized by this state to provide health care or professional services as:**

- (1) a licensed physician;**
- (2) a registered nurse;**
- (3) a licensed practical nurse; or**
- (4) an advanced practice nurse.**

**(b) The state department shall prepare and publish, in English and Spanish:**

- (1) a vaccination disclosure form for each vaccination; and**
- (2) an exemption from vaccination form.**

**(c) Each vaccination form published under subsection (b)(1), must include an explanation of the:**

- (1) risks, including:**
  - (A) contraindications;**
  - (B) warnings; and**
  - (C) adverse reactions;**
- listed in the manufacturer's package insert; and**
- (2) benefits;**

**of a vaccine used in the vaccination.**

**(d) The exemption from vaccination form published under subsection (b)(2) must include:**

- (1) an explanation of an adult's legal right to not receive a vaccination if the adult has not given voluntary written consent for the administration of a vaccination;**
- (2) an explanation of a child's legal right to not receive a vaccination if the child's parent or guardian has not given voluntary written consent for the administration of a vaccination;**
- (3) a signature line;**
- (4) a date line;**
- (5) options to claim an exemption under:**
  - (A) subdivision (1); and**
  - (B) subdivision (2);**
- (6) directions for a parent or guardian of a child to file the**

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1 exemption from vaccination form with:

2 (A) the child's teacher;

3 (B) the child's principal; or

4 (C) an individual who may order a vaccination for the  
5 child absent an objection.

6 (e) The state department shall distribute the forms described in  
7 subsection (b) to each health care provider who provides a  
8 vaccination.

9 (f) Each health care provider who provides a vaccination shall  
10 provide a copy of the forms described in subsection (b) to:

11 (1) an adult; or

12 (2) the parent or guardian of a child;

13 who may receive the vaccination. The health care provider shall  
14 read and explain the vaccination disclosure form and exemption  
15 from vaccination form if requested to do so by the adult or the  
16 parent or guardian of a child before receiving a vaccination.

17 (g) An adult shall not be required to receive a vaccination  
18 without the adult's voluntary written consent.

19 (h) A civil or criminal penalty shall not be imposed upon an  
20 adult for not giving voluntary written consent to receive a  
21 vaccination.

22 (i) A child shall not be required to receive a vaccination without  
23 the voluntary written consent of the child's parent or guardian.

24 (j) A civil or criminal penalty shall not be imposed upon a  
25 parent or guardian of a child for the parent's or guardian's not  
26 giving voluntary written consent for the child to receive a  
27 vaccination.

28 (k) The state department may impose a civil penalty of not more  
29 than one hundred dollars (\$100) on a health care provider who  
30 violates this chapter.

31 (l) The state department may adopt rules under IC 4-22-2 to  
32 implement this chapter.

33 SECTION 3. IC 20-8.1-7-9.5 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9.5. (a) **Except as**  
35 **provided in subsection (f)**, every child residing in Indiana shall be  
36 immunized against:

37 (1) diphtheria;

38 (2) pertussis (whooping cough);

39 (3) tetanus;

40 (4) measles;

41 (5) rubella;

42 (6) poliomyelitis; and

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(7) mumps.

(b) **Except as provided in subsection (f)**, every child residing in Indiana who enters kindergarten or grade 1 shall be immunized against hepatitis B and chicken pox.

(c) The state department of health may expand or otherwise modify the list of communicable diseases that require documentation of immunity as medical information becomes available that would warrant the expansion or modification in the interest of public health.

(d) The state department of health shall adopt rules under IC 4-22-2 specifying the:

- (1) required immunizations;
- (2) child's age for administering each vaccine;
- (3) adequately immunizing doses; and
- (4) method of documentation of proof of immunity.

(e) Each school shall notify each parent of a child who enrolls in the school of the requirement that the child must be immunized and that the immunization is required for the child's continued enrollment, attendance, or residence at the school unless:

- (1) the parent or child provides the appropriate documentation of immunity;
- (2) for chicken pox, the parent or child provides a written signed statement that the child has indicated a history of chicken pox; ~~or~~
- (3) section 2 or 2.5 of this chapter applies; ~~or~~
- (4) subsection (f) applies.**

**(f) The immunization or vaccination requirement under subsection (a) or (b) is waived if a child's parent or guardian:**

- (1) objects to an immunization or a vaccination for reasons stated in sections 2 and 2.5 of this chapter;**
- (2) completes an exemption from vaccination form provided by the state department of health under IC 16-19-3-28; and**
- (3) files the exemption from vaccination form with:**
  - (A) the child's teacher;**
  - (B) the child's principal; or**
  - (C) an individual who may order a vaccination for the child absent an objection.**

~~(f)~~ **(g)** After June 30, 2005, every child in Indiana who enters grade 9 and grade 12 shall be immunized against hepatitis B. However, a child may not be prevented from enrolling in, attending, or graduating from high school for the sole reason that the child has not been immunized under this subsection. Beginning in the 2007-2008 school year, a high school is not required to notify each parent of a child enrolled to enter grade 9 of the immunization requirement in this

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1 subsection. The exceptions in sections 2 and 2.5 of this chapter apply  
2 to this subsection. This subsection expires July 1, 2008.

3 SECTION 4. IC 34-30-2-64.5 IS ADDED TO THE INDIANA  
4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2005]: **Sec. 64.5. IC 16-19-3-28 (Concerning**  
6 **an adult, a parent, or a guardian not giving voluntary written**  
7 **consent for vaccination).**

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